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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

FILIBERTO GONZALEZ and
MARTINIANO ARCIGALEON

Defendants.

No. CR05- 00413 SBA

STIPULATION TO CONTINUE
STATUS HEARING FROM
FEBRUARY 7, 2006 TO FEBRUARY
28, 2006 AND ORDER EXCLUDING
TIME

The parties are scheduled to appear before The Honorable Sandra Brown
Armstrong, United States District Judge, on February 7, 2006 at 9:00 a.m. for a status
hearing. The parties jointly and respectfully request that the status hearing be continued
to February 28, 2006 at which time the parties will submit Rule 11(c)(1)(C) plea
agreements for the Court's consideration or will ask the Court to set a trial date.

The indictment is the product of two separate Drug Enforcement Administration
(DEA) investigations. The indictment alleges 6 different narcotics transactions. While

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1 the primary phase of discovery has been completed, the focus of the follow-up discovery
2 requests centers around the surveillance of the defendants and the quality of the
3 recordings of the transactions. Since the last time the parties were before the Court on
4 January 10, 2006, the government reproduced an audio recording of one of the drug
5 transactions without distorting background noise. The defense is in the process of
6 reviewing and translating the recording. In addition, the U.S. Attorney's received last
7 week DEA lab reports on fingerprint analysis conducted on certain items seized during
8 the investigation. The defendants have just received the reports and require time to
9 review them and determine whether to conduct independent follow-up analysis.

10 On a parallel track, the parties have continued to meet in an effort to discuss a
11 possible resolution of the case short of trial. The meetings have been productive and will
12 conclude in the next two weeks. The parties anticipate submitting Rule 11(c)(1)(C) plea
13 agreements to the Court for its consideration at the next status hearing. Otherwise, the
14 parties will ask the Court to set a trial date.

15 In addition, counsel for the government begins a jury trial in front of The
16 Honorable Claudia Wilken, United States District Judge, on February 13, 2006 in the
17 matter of the *United States v. Mirza Ali, et al.*, CR02-40081 CW. The trial is anticipated
18 to last 6 weeks.

19 Accordingly, the parties respectfully request a continuance of the status hearing
20 from February 7, 2006 to February 28, 2006 at 9:00 a.m. The parties stipulate and agree
21 that failure to exclude the time period between February 7, 2006 and February 28, 2006
22 from computation under the Speedy Trial Act would unreasonably deny the government
23 continuity of counsel and would deny counsel for the defendants the reasonable time
24 necessary for effective preparation, taking into account the exercise of due diligence. 18
25 U.S.C. Section 3161(h)(8)(A) and (B)(iv). The parties further stipulate that the ends of
26 justice served by the continuance outweigh the best interest of the public and the

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1 defendant in a speedy trial.

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3 DATED: February 2, 2006

Respectfully submitted,

4 KEVIN V. RYAN
United States Attorney

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7 BRIAN J. STRETCH
Assistant United States Attorney

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10 DATED: _____

SCOTT SUGARMAN
Counsel for Filiberto Gonzalez

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12 DATED: _____

JEROME MATTHEWS
Counsel for Martiano Arcigaleon

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ORDER

Based upon the stipulation of the parties, and for good cause shown, IT IS HEREBY ORDERED that the status hearing scheduled for February 7, 2006 shall be continued to February 28, 2006 at 11:00 a.m. IT IS FURTHER ORDERED that the time period from February 7, 2006 to February 28, 2006 shall be excluded from computation under the Speedy Trial Act because failure to do so would unreasonably deny the government continuity of counsel and would deny counsel for the defendants the reasonable time necessary for effective preparation, taking into account the exercise of due diligence. 18 U.S.C. Section 3161(h)(8)(A) and (B)(iv). The Court finds that the ends of justice served by the continuance outweigh the best interest of the public and the defendant in a speedy trial. *Id.*

DATED: 2/6/06


SAUNDRA BROWN ARMSTRONG
United States District Court Judge

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